

AN ORDINANCE      **9 8 7 5 3**

REAFFIRMING AND DECLARING THAT THE SAN ANTONIO RANCH WATER RECYCLING CENTER ELIMINATION PROJECT (PROJECT) IS A NECESSARY PUBLIC PROJECT; FURTHER REAFFIRMING AND DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTY, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE PROJECT; AUTHORIZING THE SAN ANTONIO WATER SYSTEM (SAWS) TO ACQUIRE PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTY DESCRIBED BELOW, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE PROJECT, TO WIT: A 1.526 ACRE (66,479 SQUARE FEET) PERMANENT EASEMENT OUT OF CONVEYANCE TO HENRY ZUMWALT AND BONNIE ZUMWALT IN VOLUME 2905, PAGE 551 IN COUNTY BLOCK 4480, AND KNOWN AS PARCEL NO. 8117; A 0.0265 ACRE (1,153 SQUARE FEET) PERMANENT EASEMENT OUT OF CONVEYANCE TO DWAYNE THOMPSON IN VOLUME 9654, PAGE 696 IN COUNTY BLOCK 4525 AND KNOWN AS PARCEL NO. 8118; A 0.0841 ACRE (3,662 SQUARE FEET) PERMANENT EASEMENT OUT OF CONVEYANCE TO RICHARD W. REDDOUT AND CATHERINE E. REDDOUT RECORDED IN VOLUME 6731, PAGE 1615 IN COUNTY BLOCK 4555 AND KNOWN AS PARCEL NO. 8135; ALL REQUIRED PERMANENT EASEMENTS ARE LOCATED WITHIN BEXAR COUNTY, TEXAS, AND FOR A PUBLIC PURPOSE AS PART OF THE PROJECT; AUTHORIZING SAWS, ITS EMPLOYEES, AGENTS AND/OR THEIR AUTHORIZED INDEPENDENT NEGOTIATORS TO NEGOTIATE AND EXECUTE ALL AGREEMENTS, EASEMENTS AND OTHER NECESSARY DOCUMENTS WITH THE OWNERS OF CERTAIN PRIVATELY OWNED PROPERTY DESCRIBED ABOVE, AND TO TAKE ALL OTHER LAWFUL ACTIONS NECESSARY OR INCIDENTAL TO SURVEY, SPECIFY, CLARIFY, DEFINE AND ACQUIRE THE PERMANENT EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTY AS DESCRIBED ABOVE; FURTHER AUTHORIZING SAWS AND ITS ATTORNEYS TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY, AND PROSECUTE ALL SUCH CONDEMNATION PROCEEDINGS THROUGH CONCLUSION (INCLUDING FINAL JUDGMENT AND ALL NECESSARY APPEALS) FOR THE CONDEMNATION OF THE PERMANENT EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTY AS DESCRIBED ABOVE; APPROVING, RATIFYING AND DECLARING VALID ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS, AGENTS AND/OR EMPLOYEES ACTING FOR SAWS TO ACQUIRE SUCH PERMANENT EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTY AS DESCRIBED ABOVE; DECLARING THAT THE CONVEYANCE OF ALL SUCH

**PERMANENT EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTY AS DESCRIBED ABOVE SHALL BE TO THE CITY OF SAN ANTONIO FOR THE USE AND BENEFIT OF SAWS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

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**WHEREAS**, the public health, safety and best interest of the City of San Antonio and its citizens require the continued construction, operation and maintenance of sewer line facility, and

**WHEREAS**, it is necessary to construct, operate, and maintain such a facility, the San Antonio Ranch Water Recycling Center Elimination Project (the "Project") located partially upon the property which is privately owned; and

**WHEREAS**, the City of San Antonio acting by and through representatives of the San Antonio Water System ("SAWS"), have been unable to acquire the permanent easements described in **Attachment I** attached hereto and incorporated herein by reference for all purposes; and

**WHEREAS**, the San Antonio Water System Board of Trustees (the "Board") finds that the acquisition of such easements is necessary for the public health, safety, and best interests of the citizens of the City of San Antonio and the surrounding region; and

**WHEREAS**, the Board requests that the City of San Antonio adopt an ordinance declaring a public necessity for the acquisition of such easements through the filing of lawsuits when deemed necessary to construct, operate and maintain the Project, through the exercise of its eminent domain authority; and

**WHEREAS**, the Board further requests the San Antonio City Council to authorize the San Antonio Water System to undertake such proceedings; and

**WHEREAS**, the City Council of the City of San Antonio desires to (1) reaffirm and declare that SAWS's San Antonio Ranch Water Recycling Center Elimination Project is a necessary public project (2) reaffirm and declare that a public necessity exists for the acquisition of permanent easement interests across, over, upon and under certain privately owned real properties as described in the **Attachment I**, by negotiation and/or condemnation, if necessary, for construction of public improvements for use as a part of the San Antonio Ranch Water Recycling Center Elimination Project (3) authorize SAWS to acquire permanent easement interests by negotiation and/or condemnation, if necessary, for construction of public improvements for use as a part of the San Antonio Ranch Water Recycling Center Elimination Project (4) authorize SAWS, its employees, agents and/or their authorized independent negotiators to negotiate and execute all agreements, easements and other necessary documents with the owners of certain privately owned properties as described in the referenced **Attachment I** and to take all other lawful actions necessary or incidental to survey, specify, clarify, define and acquire the permanent easement interests across, over, upon and under certain privately owned properties as described in the referenced **Attachment I**, (5) further authorize SAWS and its attorneys to file eminent domain proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of these permanent easement interests across, over, upon and under certain privately owned properties as described in the referenced **Attachment I**, (6) approve, ratify and declare valid all prior acts and proceedings done or initiated by attorneys, agents and employees of an/or acting for SAWS to acquire such permanent easement interests across, over, upon and under

certain privately owned properties as described in the referenced **Attachment I** (7) declare that the conveyance of all such permanent and temporary easement interest in certain privately owned properties as described in the **Attachment I** shall be to the City of San Antonio for the use and benefit of the SAWS; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** City Council hereby reaffirmed and declared that the System's San Antonio Ranch Water Recycling Center Elimination Project is a necessary public interest.

**SECTION 2.** It is hereby further reaffirmed and declared that a public necessity exists for the acquisition of these permanent easement interests in certain privately owned properties as described in **Attachment I** attached hereto and incorporated herein for all purposes by negotiation and/or condemnation, if necessary, for public improvements for use as part of the San Antonio Ranch Water Recycling Center Elimination Project.

**SECTION 3.** The San Antonio Water System (SAWS), acting on behalf of the City of San Antonio, is hereby authorized as follows (1) SAWS is authorized to acquire permanent easement interests by negotiation and/or condemnation, if necessary, for public improvements for use as a part of the San Antonio Ranch Water Recycling Center Elimination Project, (2) SAWS, its employees, agents and/or their authorized independent negotiators to negotiate and execute all agreements, easements, and other necessary documents with the owners of certain privately owned properties as described in the referenced **Attachment I** and to take all other lawful actions necessary or incidental to survey, specify, clarify, define and acquire the permanent easement interests across, over, upon and under certain privately owned properties as described in the referenced **Attachment I**, (3) SAWS and its attorneys to file eminent domain proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of the permanent easement interests across, over, upon and under certain privately owned properties as described in the referenced **Attachment I**, (4) SAWS is authorized to approve, ratify and declare valid all prior acts and proceedings done or initiated by attorneys, agents and employees of an/or acting for SAWS to acquire such permanent easement interests across, over, upon and under certain privately owned properties as described in the referenced **Attachment I**, and (5) to declare that the conveyance of all such permanent easement interests in certain privately owned properties described in **Attachment I** shall be to the City of San Antonio for the use and benefit of the System.

**SECTION 4.** All prior acts and proceedings done or initiated by attorneys, agents and employees of and/or acting for the System to acquire such permanent easement interests are hereby approved and ratified.

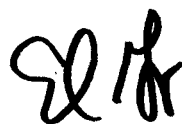
**SECTION 5.** The conveyance of the permanent easements described in **Attachment I** shall be to the City of San Antonio for the use and benefit of the System.

**SECTION 6.** It is officially found, determined and declared that the meeting at which this ordinance is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

**SECTION 7.** If any part, section, paragraph, sentence, phrase or word of this Ordinance is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

**SECTION 8.** This ordinance shall be immediately effective if it receives at least eight affirmative votes. Otherwise, it shall be effective on February 8, 2004.

**PASSED AND APPROVED** this 29th day of January 2004.



M A Y O R

**EDWARD D. GARZA**

**ATTEST:**

  
**CITY CLERK**

**APPROVED AS TO FORM:**

  
**CITY ATTORNEY**